



[Billing Code: 6750-01-S]

FEDERAL TRADE COMMISSION

Agency Information Collection Activities;

Proposed Collection: Comment Request

AGENCY: Federal Trade Commission (“Commission” or “FTC”).

ACTION: Notice.

SUMMARY: The FTC plans to conduct a qualitative survey of consumers who recently purchased an automobile and financed that purchase through a dealer. Through a survey research firm, the FTC seeks to interview consumers about the consumer’s experience in selecting, purchasing, and financing an automobile from a dealer. The interviews also will involve reviewing the consumer’s documentation from the purchase and financing. This is the first of two notices required under the Paperwork Reduction Act (“PRA”) in which the FTC seeks public comments on its proposed consumer research in connection with Office of Management and Budget (“OMB”) review of, and clearance for, the collection of information discussed herein.

DATES: Comments must be received on or before [insert date 60 days after date of publication in the FEDERAL REGISTER].

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write “Auto Buyer Consumer Survey, Project No. P154800” on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/autobuyersurveypra>, by following the instructions on the web-based form. If you prefer to file your comment on paper,

mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Carole Reynolds, 202-326-3230, or Teresa Kosmidis, 202-326-3216, Division of Financial Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Mail Stop-CC-10232, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

For many consumers, aside from housing costs, a car purchase is their most expensive financial transaction. With prices averaging more than \$33,500 for a new vehicle and \$20,000 for a used vehicle from a dealer, most consumers seek to finance the purchase of a new or used car.¹ Consumers may seek financing from their local bank or credit union, as well as from the dealer selling the vehicle. Financing obtained at the dealership, whether it is provided by a third party or directly by the dealer, may provide benefits for many consumers, such as convenience,

¹ In 2015, the average price of a new car sold in the U.S. is \$33,560, according to Kelly Blue Book. *See* Kelly Blue Book, Average New Car Transaction Prices Rise Steadily, Up 2.6% in April 2015 (May 1, 2015), *available at* <http://mediaroom.kbb.com/2015-05-01-New-Car-Transaction-Prices-Rise-Steadily-Up-2-6-Percent-in-April-2015-According-to-Kelley-Blue-Book>. The average price of a used car is \$20,057. *See* Used Car Prices Hold Up in Strong New-Vehicle Market), J.D. Power (Sept. 8, 2015), *available at* <http://www.jdpower.com/cars/articles/used-cars/used-car-prices-hold-strong-new-vehicle-market>. Used cars available from independent dealers and from “buy here pay here” dealers have been lower in price. For example, in 2014, over 42% of cars were sold at an average sales price of \$5,000 - \$10,000 at independent dealers; the average cost of cars was \$7,150 at “buy here pay here” dealers. *See* 2015 NIADA Used Car Industry Report, at 6 and 16, respectively, *available at*

special manufacturer-sponsored programs, access to a variety of banks and financial entities, or access to credit otherwise unavailable to a buyer. Financing that is offered or arranged by dealers, however, can be a complicated, opaque process and potentially involve unfair or deceptive practices.

As the nation's consumer protection agency, the Commission is committed to protecting consumers in connection with auto-related transactions. The Commission has broad authority to protect consumers in this area. The agency enforces the FTC Act, which prohibits unfair and deceptive practices by a wide variety of entities, including automobile dealers.² Also pursuant to the Dodd-Frank Act,³ the FTC is authorized to prescribe rules under Section 553 of the Administrative Procedure Act (APA)⁴ with respect to unfair or deceptive acts or practices by motor vehicle dealers.⁵

<http://www.niada.com/publications.php>.

² 15 U.S.C. 45(a). The Commission also has enforcement authority over automobile dealers under various other statutes, including, for example, the Truth in Lending Act, 15 U.S.C. 1601-1666j, and its implementing Regulation Z, 12 CFR 226, 12 CFR 1026; the Consumer Leasing Act, 15 U.S.C. 1667-1667f, and its implementing Regulation M, 12 CFR 213, 12 CFR 1013; the Equal Credit Opportunity Act (ECOA), 15 U.S.C. 1691-1691f, and its implementing Regulation B, 12 CFR 202, 12 CFR 1002; the Electronic Fund Transfer Act, 15 U.S.C. 1693-1693r, and its implementing Regulation E, 12 CFR 205, 12 CFR 1005; and the privacy and safeguard provisions of the Gramm-Leach Bliley Act, 15 U.S.C. 6801-6809, and related privacy rule, 16 CFR 313, and safeguards rule, 16 CFR 314.

³ Dodd-Frank Wall Street Reform and Consumer Protection Act § 1029, 12 U.S.C. 5519.

⁴ 5 U.S.C. 553.

⁵ See Dodd-Frank Act § 1029(d), 12 U.S.C. 5519(d). Under the Dodd-Frank Act, the term “motor vehicle dealer” refers to “any person or resident in the United States, or any territory of the United States, who (A) is licensed by a State, a territory of the United States, or the District of Columbia to engage in the sale of motor vehicles; and (B) takes title to, holds an ownership in, or takes physical custody of motor vehicles.” *Id.* at 1029(f)(2), 12 U.S.C. 5519(f)(2). The term “motor vehicle” includes, among other things, motorcycles, motor homes, recreational vehicle trailers, recreational boats and marine equipment, and other vehicles titled and sold through dealers. See *id.* at 1029(f)(1), 12 U.S.C. 5519(f)(1).

In recent years, the FTC has been particularly active in enforcement and other initiatives related to automobile transactions. Since 2011, the FTC has brought more than twenty-five cases protecting consumers in this area, including a sweep of ten actions against automobile dealers for deceptive advertising, and a coordinated federal-state effort that yielded more than two hundred automobile actions for fraud, deception, and other illegal practices.⁶ In 2011, the FTC conducted three automobile “roundtables” around the country, where panelists from government, consumer advocacy groups, and industry discussed consumer protection issues related to sales, financing, and leasing practices involving automobiles; the Commission also sought and received public comments on these issues.⁷ Additionally, the FTC has produced many consumer education and business education materials related to automobile purchasing and financing.⁸

⁶ See Press Releases, FTC Announces Sweep Against 10 Auto Dealers (Jan. 9, 2014), *available at* <http://www.ftc.gov/news-events/press-releases/2014/01/ftc-announces-sweep-against-10-auto-dealers>; FTC Approves Final Consent Orders in Deceptive Auto Dealers’ Ad Cases (May 6, 2014), *available at* <http://www.ftc.gov/news-events/press-releases/2014/05/ftc-approves-final-consent-orders-deceptive-auto-dealers-ads> and FTC, Multiple Law Enforcement Partners Announce Crackdown on Deception, Fraud in Auto Sales, Financing and Leasing (Mar. 26, 2015), *available at* <https://www.ftc.gov/news-events/press-releases/2015/03/ftc-multiple-law-enforcement-partners-announce-crackdown>. See also <https://www.ftc.gov/news-events/media-resources/consumer-finance/auto-marketplace>.

⁷ See Press Release, FTC Continues To Seek Public Input On Consumer Issues in Motor Vehicle Sales, Financing and Leasing, *available at* <http://www.ftc.gov/news-events/press-releases/2012/02/ftc-continues-seek-public-input-consumer-issues-motor-vehicle>. See also Public Comments, #369: FTC Roundtables Will Address Consumer Issues in Motor Vehicle Financing and Leasing; FTC File No. P104811, *available at* <https://www.ftc.gov/policy/public-comments/initiative-369>.

⁸ See, e.g., Understanding Vehicle Financing (revised January 2014), produced in cooperation with the American Financial Services Education Foundation and the National Automobile Dealers Association, *available at* <http://www.consumer.ftc.gov/articles/0056-understanding-vehicle-financing>; Lesley Fair, FTC, Operation Ruse Control: 6 tips if cars are up your alley (Mar. 26, 2015), *available at* <https://www.ftc.gov/news-events/blogs/business-blog/2015/03/operation-ruse-control-6-tips-if-cars-are-your-alley>; Colleen Tressler, FTC, Check out the auto dealer and financing before you sign (Oct. 31, 2014), *available at* <http://www.consumer.ftc.gov/blog/check-out-auto-dealer-and-financing-you-sign>.

The FTC’s proposed survey will explore in more detail the experience of actual consumers who recently purchased and financed an automobile from a dealer.⁹ The survey is intended to inform the Commission about current consumer protections issues that may exist and that could be addressed through FTC action, including enforcement initiatives, rulemaking, or education.

II. The FTC’s Proposed Study

A. Study Description

The FTC plans to conduct a qualitative survey of consumer experiences in recent purchases of automobiles that were financed through automobile dealers. The survey will involve an initial sample of five in-person consumer interviews to test the survey questionnaire, followed by in-person interviews of 40 consumers, with the option to interview 40 more, if the FTC deems the additional interviews likely to be helpful. For the initial 40 consumers, the FTC seeks to interview approximately 20 consumers who have “prime” credit scores and approximately 20 consumers who have “subprime” credit scores in order to learn about the consumer’s experience with purchasing and financing in these two market segments.¹⁰

⁹ For purposes of this survey, “automobile” refers to cars, minivans, SUVs, and light trucks – all of which consumers commonly purchase and finance through automobile dealers. Depending on the consumers who participate in the survey, the dealers could potentially include: 1) franchise dealers (*e.g.*, that have franchises with automobile manufacturers and may offer consumers financing that is assigned to “captive” finance companies — subsidiaries owned by the manufacturers — or to other finance entities); 2) independent dealers (*e.g.*, that do not have franchises with automobile manufacturers and may offer consumers financing that is assigned to finance entities that are not subsidiaries owned by the manufacturers but that may be an entity related to or associated with the dealer); and 3) “buy here pay here” dealers (*e.g.*, a type of independent dealer that offers consumers in-house financing that the dealers usually retain, although some larger dealers may assign the financing to “buy here pay here” finance entities).

¹⁰ For example, Experian categorizes consumers with scores below 601 as subprime (either “subprime,” or “deep subprime”). *See* Experian, State of the Automotive Finance Market Third Quarter 2015 *available at* <http://www.experian.com/automotive/automotive-credit-webinar.html>.

Generally, the sample group of consumers will be racially diverse and will include participants of both sexes. The FTC will use a survey research firm to locate the participants, conduct the survey, and write a brief methodological report, and other written report as requested by the FTC. The survey research firm will select the consumers from a pool of people who previously have indicated that they are willing to participate in surveys but who have not participated in any in-depth survey interviews in the past year. The firm will identify interview subjects who have purchased an automobile from a dealer in the previous six months and used financing offered or arranged by the dealer to make the purchase. The interview subject also must have kept the documentation (e.g., credit contract) he or she received as part of the purchase and financing. The consumer's credit score will be used in the survey; if survey participants do not have their credit score, the consumer may obtain it through services that provide this information or the contractor will obtain it for the consumer, with the consumer's permission. The interview subjects and their personal identifying information will be anonymized in material received by the FTC, and will be vigorously protected by the survey firm.¹¹

The survey research firm will conduct interviews lasting approximately 90 minutes with each consumer. The interviews will focus on, among other things:

- the consumer's experience in shopping for and choosing an automobile;
- the process of agreeing to a price for the automobile;

¹¹ The survey firm will set up two secure databases for maintaining information about potential and selected survey participants. The firm will assign each consumer a random identification number ("random ID number"), and that information along with the consumer's identifying information will be maintained by the contractor in one database. The FTC will only have access to a second database that will include the random ID number with anonymized information about the consumers and redacted information regarding the consumers' purchase and finance documents. Thus, only redacted copies of purchase and finance documents will be maintained in the survey. The

- the process of trading in the consumer's old automobile, if applicable;
- the consumer's experience in obtaining financing;
- additional products or services the dealer may have offered;
- contacts between the consumer and the dealer after the purchase; and
- the consumer's overall perception of the purchase experience.

The interviews will conclude by reviewing the consumer's documentation and exploring the consumer's understanding of that documentation. Participation in the survey will be voluntary. While the results will not be generalizable to the U.S. population, the Commission believes that they can provide useful insights into consumer understanding of the automobile purchasing and financing process at the dealership.

B. PRA Burden Analysis

Under the PRA, 44 U.S.C. 3501-3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. "Collection of information" includes agency requests or requirements to submit reports, keep records, or provide information to a third party. 44 U.S.C. 3502(3); 5 CFR 1320.3(c). The FTC seeks clearance for the automobile buyer study and the FTC's associated PRA burden estimates that follow.

A. Estimated number of respondents: 170

B. Burden Hours: 351.5 hours

C. Labor Costs: Negligible

More specifically, staff estimates that the contractor's preliminary review of consumers to ascertain consumers for the survey would involve no more than 170 consumers (at most twice

survey will utilize rigorous protections for privacy and security of consumer information.

the maximum number of consumers — 85 — that would be involved in the survey).

The estimated hours are a total of the time for preliminary review, the pretest, the interviews, and obtaining credit scores. The preliminary review will include topics such as whether the consumer has recently purchased a car and has participated in a survey in the past year, as well as the consumer's self-identified race and origin. This review, done by phone, would require no more than 15 minutes per consumer, for 42.5 hours (170 respondents x 15 minutes). Staff also estimates that at most, each of the 170 consumers would take approximately 30 minutes to locate or ascertain whether they have their documentation and their credit score for the survey, for 85 hours. Thus, the preliminary review total would be 127.5 hours.

Staff will pretest the questionnaire and interview materials with approximately five respondents to ensure that questions are easily understood. Staff estimates that each interview (including the documentation review) will take approximately 90 minutes, plus 60 minutes travel time to and from the survey. Allowing for an extra ten minutes for questions unique to the pretest, the pretest will total approximately 13.33 hours (5 respondents x 160 minutes each).

Once the pretest is completed, the initial 40 interviews will take 100 hours (60 hours for the interviews plus 40 hours travel time to and from the survey). If an additional 40 consumers are interviewed, that will require an additional 100 hours, respectively. Thus, for the interviews of 80 consumers, staff estimates that 200 hours will be required (80 x 150 minutes each).

Staff further estimates that approximately 75%, or 64, of the 85 survey participants (pretest and interviews) do not already have their credit score and will thus procure it through the contractor or services that provide this information. Staff estimates that 10 minutes per consumer will be required for this purpose, for a total of 10.67 hours (64 respondents x 10

minutes each).

Thus, the FTC's survey will require 351.5 hours (127.5 hours for preliminary review + 13.33 hours for pretest + 200 hours for interviews + 10.67 hours for obtaining credit scores).

The monetary cost per respondent should be negligible. The contractor will assist those consumers who seek the contractor's assistance in obtaining their credit score if the consumers do not have it. Alternatively, costs to obtain their credit score through other means should be nil or negligible. Increasingly, websites offer free credit scores; additionally, credit score information often is available to consumers through credit sources they already have, such as credit card or other credit statements, in some cases.

The survey research firm may pay respondents a reasonable and customary financial incentive for participation. Participation will not require start up, capital, or labor expenditures by interview subjects.

III. Request for Comment

Under the PRA, 44 U.S.C. 3501-3521, federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. "Collection of information" means agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party.¹² As required by Section 3506(c)(2)(A) of the PRA, the FTC is providing this opportunity for public comment before requesting that OMB provide clearance for this matter.

Pursuant to Section 3506(c)(2)(A) of the PRA, the FTC invites comments on:

¹² 44 U.S.C. 3502(3); 5 CFR 132.3(c).

(1) whether the reporting requirements are necessary, including whether the information will be practically useful; (2) the accuracy of our burden estimates, including whether the methodology and assumptions used are valid; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information.

Additionally, the FTC seeks comments on the proposed survey methodology and specific issues or questions that should be included in the interview process.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before [insert date 60 days after date of publication in the FEDERAL REGISTER]. Write “Auto Buyer Consumer Survey, Project No. P154800” on your comment. Your comment – including your name and your state – will be placed on the public record of this proceeding, including to the extent practicable, on the public Commission website, at <http://www.ftc.gov/os/publiccomments.shtm>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission website.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, like anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, like medical records or other individually identifiable health information. In addition, do not include any “[t]rade secret or any commercial or financial

information which is obtained from any person and which is privileged or confidential,” as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).¹³ Your comment will be kept confidential only if the FTC General Counsel grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublic.commentworks.com/ftc/autobuyersurveypra>, by following the instructions on the web-based form. When this Notice appears at <http://www.regulations.gov/#!/home>, you also may file a comment through that website.

If you prefer to file your comment on paper, write “Auto Buyer Consumer Survey, Project No. P154800” on your comment and on the envelope and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue, NW, Suite CC-5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street, SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024. If possible, submit

¹³ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public

your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before [60 days from FEDERAL REGISTER date of publication]. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

By direction of the Commission.

Donald S. Clark,
Secretary.

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